



2025:DHC:3748-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5880/2025, CM APPLs. 26841/2025 & 26842/2025**

UNION OF INDIA AND ORS

.....Petitioners

Through: Dr. Vijendra Singh Mahndiyan,
CGSC with Ms. Apurva, Adv. for UOI with
Major Anish Muralidhar, (Army)

versus

**SUB MAHENDRA LAL
SHRIVASTAVA RETD**

.....Respondent

Through: Mr. S.S. Pandey and Mr.
Roshan Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% **05.05.2025**

C.HARI SHANKAR, J.

1. This writ petition assails judgment dated 3 September 2021, passed by the Armed Forces Tribunal¹ in three Original Applications, i.e., OA 1182/2018², OA 1314/2018³ and OA 892/2019⁴.

2. Though there are minor differences in facts in these OAs which stand adjudicated by the AFT by the impugned order, the main bone of controversy is the same. All these applications, as also the present writ petition, deal with the claim of the respondents (who were the

¹ "the AFT", hereinafter

² Sub Mahendra Lal Shrivastava (Retd) v Union of India & Ors.

³ Sub Sattaru Lakshmana Rao v Union of India & Ors.

⁴ Sub (TIFC) Jaya Prakash v Union of India & Ors.



applicants before the AFT) to beneficial re-fixation of their pay, consequent to the recommendations of the 6th Central Pay Commission⁵. The respondents' case before the AFT was that the manner in which, in the posts to which they have been promoted after 1 January 2006, as they were not given the most beneficial pay option, while re-fixing their pay consequent to their promotion after 1 January 2006, they have suffered a cascading effect of being placed in a lower pay scale than their peers in the force.

3. We may now advert briefly to the facts of the individual OAs.

OA 1182/2018 (Sub Mahendra Lal Shrivastava)

4. This OA was filed by Sub Mahendra Lal Shrivastava⁶. He was enrolled in the army on 20 January 1988 and retired as Subedar on 31 January 2018.

5. During this period, on 27 January 2007, Shrivastava was promoted as Naib Subedar. On 1 January 2008 the recommendations of the 6th CPC were implemented by the Central Government. Following this, the Ministry of Defence issued Special Army Instruction⁷ on 11 October 2008. The AFT has reproduced the relevant paras from the SAI dated 11 October 2008, and we deem it appropriate to do so as well:

“7. Drawal of Pay in the Revised Pay Structure. Save as otherwise provided in this instruction, a PBOR shall draw pay in

⁵ “6th CPC”, hereinafter

⁶ “Shrivastava”, hereinafter

⁷ “SAI”, hereinafter



the revised pay structure applicable to the rank which he holding or to the post to which he is appointed, provided that:-

(a) PBOR may elect to continue to draw pay in the existing scale until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale.

(b) In cases where a PBOR has been placed in a higher pay scale between 1st day of January 2006 and the date of notification of this instruction on account of promotion, upgradation of pay scale etc, the individual may elect to switch over to the revised pay structure from the date of such promotion, upgradation, etc.

Explanation 1 - The option to retain the existing scale under the provisions to this rule shall be admissible only in respect of one existing scale.

Explanation 2 - The aforesaid option shall not be admissible to any PBOR appointed to a post on or after the 1st day of January 2006, whether for the first time in Government service or by transfer from another post and he shall be allowed pay only in the revised pay structure.

8. Exercise of Option.

(a) The option under the provisions to para 7 above shall be exercised in writing in the form given at Appendix 'D' to this SAI, so as to reach the concerned Pay Accounts Office, within three months of the date of publication of this instruction or where an existing scale has been revised by any order made subsequent to that date within three months of the date of such order, Provided that:-

(i) In the case of a PBOR who is, on the date of such publication or as the case may be, date of such order, out of India on leave or deputation or foreign service or active service, the said option shall be exercised in writing so as to reach the PAO (OR) within three months of the date of resuming his duties in India; and

(ii) Where a PBOR is under suspension on the 1st day of January, 2006, the option may be exercised within three months of the date of his return to his duty if that date is later than the date prescribed in this sub rule.

(b) The option shall be intimated by the PBOR to the



concerned PAO, through his unit.

(c) If the intimation regarding option is not received within the time mentioned in this SAI, the PBOR shall be deemed to have elected to be governed by the revised pay structure with effect from 1st day of January 2006.

(d) The option once exercised shall be final.

Note 1 - Persons whose services were terminated on or after the 1st day of January, 2006 and who could not exercise the option within the prescribed time limit, on account of discharge on the expiry of sanction posts, resignation, dismissal or discharge from service or disciplinary grounds, are entitled to the benefits of this rule.

Note 2 - Persons who have died on or after 1st day of January, 2006 and could not exercise the option within the prescribed time limit are deemed to have opted for the revised structure on and from 01 January 2006 or such later date as is most beneficial to their dependents, if the revised pay structure is more favourable and in such cases, necessary action for payment of arrears shall be taken by concerned Pay Accounts Office/Depot Battalion/Records Office.

Note 3 - Persons who were on annual leave or any other leave on 1st day of January 2006 which entitled them to leave salary will be allowed the benefits of this rule.

14. Fixation of Pay On Promotion on or after 1st January 2006.
In the case of promotion of a PBOR from one grade pay to another in the revised pay structure, the fixation of pay in the running pay band will be done as follows :-

(a) One increment equal to 3% of the sum of the pay in the pay band, existing grade pay and Group 'X' pay (if any) will be computed and rounded off to the next multiple of 10. This will be added to the existing pay in the pay band, The grade pay corresponding to the promoted rank, will thereafter be granted in addition to this pay in the pay band, In cases where promotion involves change in the pay band also, the same methodology will be followed.

However, If the pay in the pay band after adding the increment is less than the minimum of the higher pay band to which promotion is taking place, pay in the pay band will be stepped up to such minimum.



(b) On promotion from one rank to another /financial upgradation under ACP, PBOR has an option to get his pay fixed in the higher post either from the date of his promotion or from the date of his next increment, viz 01 Jul of the year. The pay will be fixed in the following manner in the revised pay structure :-

(i) In case PBOR opts to get his pay fixed from his date of next increment then, on the date of promotion, pay in the pay band shall continue unchanged, but the grade pay of the higher rank will be granted. Further re-fixation will be done on the date of his next increment i.e. 01 Jul. On that day, he will be granted two increments; one annual increment and the second on account of promotion. While computing these two increments, Basic Pay prior to the date of promotion shall be taken into account. To illustrate, if the Basic Pay prior to the date of promotion was Rs 100, first increment would be computed on Rs 100 and the second on Rs 103.

(ii) In case a PBOR opts to get his pay fixed in the higher grade from the date of his promotion he shall get his first increment in the higher grade on the next 01 Jul, if he was promoted between 02 Jul and 01 Jan. However, if he was promoted between 02 Jan and 30 Jun of a particular year, he shall get his next increment on 01 Jul of next year.

(iii) PBOR will have the option to be exercised within one month from the date of promotion to have his pay fixed from the date of such promotion or to have the pay fixed from the date of his next increment, Option once exercised shall be final. Form of option is given at Appendix 'D' to this SAI.

(iv) If no option is exercised by the individual, PAO (OR) will regulate fixation on promotion ensuring that the more beneficial of the two options mentioned above is allowed to the PBOR. Pay on promotion may be fixed in the following manner if it is more beneficial:-

(aa) In case promoted between 02 Jan and 30 Jun, the fixation, on promotion will be done from the date of his next increment i.e 01 Jul.

(ab) In case promoted between 02 Jul and 01



Jan, the fixation on promotion will be done on the date of the promotion of the PBOR.

(v) As a one time measure, PBOR promoted on or after 01 Jan 2006 and before publication of this instruction, may exercise their option afresh within three months of the issue off this instruction. Form of option is given at Appendix 'D' to this SAI.

(c) In case of promotion to Hony Captain/Lieutenant rank on or after 1st January 2006, One additional increment will be given as in all other cases unless this amount is less than Rs 15600 i.e minimum of PB-3 then the pay will be stepped up to Rs 15600. In addition, Grade Pay and MSP as indicated in the table below para 13 will be admissible.”

6. As we have already noted, between 1 January 2006 and 11 October 2008, Shrivastava was promoted as Naib Subedar on 27 January 2007.

7. Shrivastava submitted that, owing to the circumstances in which he was placed, he omitted to exercise his option for re-fixation of his pay in terms of para 8(a) of the SAI before 11 October 2008. As such, Shrivastava was given the revised pay scale in the grade of Havildar w.e.f. 1 January 2006, instead of getting the benefit of the revised pay scale w.e.f. the date of his promotion as Naib Subedar.

8. Shrivastava subsequently exercised his option for re-fixation for being granted the benefit of revised pay scale, as per the recommendations of the 6th CPC, w.e.f. the date of his promotion as Naib Subedar, on 8 February 2012, on which date, the requisite Part II order was issued by the petitioners. This order was accepted by the respondent as was reflected in the salary slip of Shrivastava, which



was issued in September 2012. On 1 March 2013, Shrivastava was promoted as Subedar.

9. Subsequently, close to his retirement, Part II order of Shrivastava, dated 8 February 2012, was cancelled, his pay was reduced from ₹ 56,900/- to ₹ 50,000/- and recovery of ₹ 3,75,606/- was effected from his pensionary benefits. Aggrieved thereby, Shrivastava approached the AFT, seeking quashing of the decision to reduce his pay and retiral benefits and effect recoveries therefrom, and restoration of the Part II order dated 8 February 2012 with consequential benefits.

OA 1314/2018 (Sub Sattaru Lakshmana Rao)

10. Subedar Sattaru Lakshmana Rao⁸, the applicant before the AFT in OA 1314/2018, was enrolled in the army on 24 April 1995 and rose to the rank of Subedar on 1 December 2011. Prior thereto, he was promoted as Havildar on 1 April 2007, which was between 1 January 2006 and 11 October 2008. He, therefore, was also required to have exercised his option with respect to the manner in which he desired his pay to be re-fixed consequent to the acceptance of the recommendations of the 6th CPC on or before 11 October 2008, but fail to do so. As a result, the respondents granted Rao the benefit of the revised pay scale w.e.f. 1 January 2006, and not from the date of his promotion as Havildar on 1 April 2007. This resulted in adverse financial consequences to Rao, whose pay scale in the grade of Havildar and in subsequent promotional grade was less than his peers.

⁸ "Rao", hereinafter



11. Rao, therefore, approached the AFT with a prayer that he be extended the benefit of the revised pay scale as per the 6th CPC w.e.f. the date of his promotion as Havildar, w.e.f. 1 April 2007, instead of 1 January 2006 as had been extended to him.

OA 892/2019 – Sub (TIFC) Jaya Prakash

12. The applicant Sub (TIFC) Jaya Prakash⁹ before the AFT in OA 892/2018 joined the army on 23 June 1996. He was promoted from the rank of Havildar to the rank of Naib Subedar on 8 July 2008 and was subsequently promoted as Subedar w.e.f. 1 November 2011.

13. He exercised his option for being granted the benefit of the revised pay scale w.e.f. the date of his promotion as Naib Subedar on 3 July 2013 and the requisite Part II order, granting him the said scale w.e.f. 1 July 2008, was also issued on the same date.

14. However, the pay of Jaya Prakash was not re-fixed in terms of the aforesaid option, despite the issuance of the Part II order. Jaya Prakash, therefore, approached the AFT, praying that his option as exercised on 3 July 2013, for granting the benefit of the re-fixed pay scale w.e.f. the date of his promotion as Naib Subedar on 8 July 2008 be accepted and consequential benefits be granted to him.

15. The AFT has, by the impugned order dated 3 September 2021, allowed all the OAs in the following terms:

“39. In view of the above, all the three OAs under consideration

⁹ “Jaya Prakash”, hereinafter



are allowed and we direct the Respondents to:-

- (a) Review the pay fixed of the applicants and after due verification refix their pay under 6th CPC in a manner that is most beneficial to the applicants.
- (b) Thereafter refix their pay in all subsequent ranks and on transition to 7th CPC where applicable, and also ensure that they are not drawing less pay than their juniors.
- (c) Refix all pensionary and post retiral benefits accordingly.
- (d) Issue all arrears and fresh PPO where applicable, within three months of this order and submit a compliance report.

40. In view of the fact that there are a large number of pending cases which are similarly placed and fall into Category A or B, this order will be applicable in rem to all such affected personnel. Respondents are directed to take suo moto action on applications filed by similarly aggrieved personnel and instruct concerned PAO(OR) to verify records and refix their pay in 6th CPC accordingly.”

16. The AFT has, at the commencement of its discussion, identified the issue arising before it for consideration in para 24 of the impugned judgment, thus:

“24. Having heard all parties at length, the main issue before us is whether the respective PAO (OR)s who are the respondent office responsible for all matters of pay and allowances of personnel below officers’ rank are justified in arbitrarily fixing the pay as on 01.01.2006, without examining the most beneficial option for each individual while fixing the pay; irrespective of whether the option was exercised or not exercised, or was exercised late.”

17. The AFT has, thereafter, proceeded on the following reasoning, to allow the OAs:

- (i) Consequent to acceptance of the recommendations of the



6th CPC, the pay scale of army personnel were revised. They were entitled to be placed in the revised pay structure w.e.f. 1 January 2006. However, they were also entitled to exercise an option to be granted the revised pay scale from the date of their promotion, where the promotion took place between 1 January 2006 and 11 October 2008, as per SAI dated 11 October 2008 *supra*. The SAI applied to all army personnel, who were in service on 1 January 2006 or joined thereafter.

(ii) It was not in dispute that each of the respondents was promoted after 1 January 2006 and before the issuance of the SAI on 11 October 2008.

(iii) Normally, therefore, each of the respondents would have to exercise the option as to the manner in which he was to be granted the benefit of the revised pay scales in terms of the recommendations of the 6th CPC, on or before 11 October 2008, as per para 8 read with 14(b) of the SAI.

(iv) However, it was not in dispute that grant of the benefit of the revised pay scale w.e.f. 1 January 2006, instead of the date on which they were promoted to the next grade between 1 January 2006 and 11 October 2008, would place the respondents in a financially disadvantageous position *vis-à-vis* their colleagues.

(v) Clause 14 (b) (iv) of the SAI required the PAO (OR) in a case in which an officer failed to exercise his or her option



regarding the manner in which the benefit of the revised pay scale was to be extended, on or before 11 October 2008, to ensure that the more beneficial of the two options was allowed to the officer.

(vi) The AFT, thereafter, examined the situation in which the option was exercised after the stipulated date. The AFT held that, as the date for exercise of option was extended by a communication dated 11 December 2013, only till 30 June 2011, the officers could not be put to prejudice thereby.

(vii) Therefore, the AFT, held that there was no justification to deny the benefit of submission of option to applicants, who had not given their option before 11 December 2013. We may note, here, that the cases of persons who have exercised their option after the stipulated period could not in any case be worse off than persons, who never exercised their option at all. As such, we need not traverse the route that has been taken by the AFT in that regard.

18. The AFT also noted clause 21 of the SAI, which granted power of relaxation, which read as thus:

“Power to Relax. Where the President is satisfied that the operation of all or any of the provision of these rules causes undue hardship of any particular case he may, order, dispense with or relax the requirement of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case on a just and equitable manner.”



19. Following this, the AFT, observed and held as under:

“34. A detailed reading of SAI 1/S/2008 indicates that vide Para 21 power has been given to the competent authority for relaxing the rule in case of undue hardship. There is no denying that, the facts clearly demonstrate that it was admittedly a case of extreme hardship to the applicants that they were given less salary as compared to their contemporaries or juniors in the same rank and discharging the same duties due to a technical default/ rigid mindless application of rules. Moreover, the stand of the Respondents of giving less salary to the applicants due to their perceived omission is not only, not justified, but is against the spirit of a model employer who by this action has created serious disparity and anomalous service conditions for the service personnel in one rank itself.

35. In addition to above, we are of the considered opinion that if para 8(c) is accepted as a hurdle against providing relief to the applicants, then we cannot ignore the non-implementation of the beneficial provision given in Para 14(b)(iv), which clearly mandates that PAO (OR) will regulate fixation of pay that will be beneficial (out of the two options mentioned in the scheme) to the individual. Such exercise should have been done before placing the applicants in a particular pay scale. If the PAO (OR) had any difficulty due to the restriction imposed by Para 8(c), it was then once again the duty of the respondents to relax the rule by exercising power under Para 21.

36. As seen from the records such arbitrary fixing of pay by the PAOs has denied the applicants and many other similarly placed personnel the correct pay and allowances in various ranks and consequently, their pension and other post retiral benefits. Equally disconcerting is the fact that, those who have continued in service and have transited into the 7th CPC scale, have again transited into lower pay bands as their initial fixation of pay during transition to 6th CPC has been done in a lackadaisical manner with utter disregard to the instructions contained in the Special Army Order which stipulates that in the absence of option being exercised, the establishment (Pay & Accounts Office in the case of personnel below officers rank) was required to fix the pay on its own in a manner which was most beneficial to the individual. Moreover, we are of the considered opinion that when there is a serious penal consequence by virtue of implementation of a particular scheme, normally such scheme should be brought to the notice of each individual. In this case we have not found any record that the scheme was brought to the notice of the individuals, or the beneficial option worked out and intimated to the applicants.



37. As seen from the documents placed on record, the reason for extending the time by which the option was to be exercised was that personnel posted to difficult areas were unaware of these instructions and could not get the knowledge of the scheme. Thus, it is the admitted position of the Respondents themselves that they extended the time for submitting the option from time to time to at least 30.06.2011. Therefore, it appears that the time limit fixed in the option was not the soul of the scheme nor was it the essence of the scheme. We find from the response submitted by certain PAO(OR) that the letter dated 30.12.2013 itself had not extended the time limit for submission of option to 30.06.2011 but this had only given direction to the establishment to process the options of the persons who may have submitted their options by 30.06.2011. We are unable to accept such a stance for the simple reason that the respondents' letter dated 11.12.2013 has unequivocally the headings "EXTENSION OF PERIOD FOR EXERCISING OF OPTION FOR PAY FIXATION IN THE REVISED PAY STRUCTURE".

38. In summary, we find that given the complexity of calculating pay and allowances, while the rules and regulations for implementation of 6th CPC had adequate safeguards to ensure that the most beneficial option was worked out and adopted for each individual, this has not been implemented with requisite seriousness and commitment by the Respondents, in particular the PAO(OR) who were the custodians to ensure this. This has resulted in serious financial implications to individuals including loss of pay and allowances whilst in service and on retirement. This has also resulted in financial loss to those who transited to 7th CPC with incorrect fixation of pay in the 6th CPC. The only ground for denial of the most beneficial pay scale to the applicants and many others who are similarly placed is that either the individuals did not exercise an option for pay fixation, or they exercised it late, beyond the perceived stipulated period. In the given circumstances, the respondents themselves should have taken steps to remove this anomaly, and ease out the issue for the serving soldiers, many of whom may not be knowledgeable about the intricacies of these calculations, in the full knowledge that that no one will ever knowingly opt for a less beneficial option. We emphasise the fact that it's the responsibility of the Respondents and the service authority to look after the interests of its own subordinate personnel."

20. Aggrieved by the decision by the AFT, the Union of India is before us in the present writ petition.



21. Though the writ petition is facially directed only against Shrivastava, the applicant in OA 1182/2018, as the issue in all three OAs is similar, and the judgment is common, we have dealt with the matter comprehensively.

22. We have heard Dr. Vijendra Singh Mahndiyan, learned CGSC for the Union of India and Mr. S.S. Pandey, learned Counsel for the respondent at some length.

23. Besides relying on the reasoning adopted by the AFT in the impugned order, Mr. Pandey has also placed reliance on an earlier decision by the AFT, rendered on 10 December 2014 in a batch of OAs headed by **OA 113/2014**¹⁰. He specifically places reliance on paras 9 and 10 of the said decision which read as under:

“9. First fact, and it is most important fact, is that in case the petitioners are put in the revised pay scale, they will be getting the less pay. The respondents have taken the plea that because of the default only of the petitioners, they are not entitled to remain in old pay scale as per the clause (c) of para 8 of SAI No.1/S/2008, though it may result into denial of equal pay to the petitioners, which is being paid to the persons in the same rank and who are holding the post with same duties as are being discharged by the petitioners. We are of the considered opinion that when there is a serious penal consequence by virtue of implementation of a particular scheme, normally such scheme should be brought to the notice of each individual. In this case we have not found that scheme was brought to the notice of the individuals. We have reason to believe so because of the reason that in the documents placed on record itself there is mention of the fact that because of the posting of the persons at difficult places, number of persons could not get the knowledge of the scheme. The Govt. itself extended the time for submitting the option from time to time and from 10.01.2009 to at least 31.06.2011. The fact that the time was extended, is the admitted position by the respondents themselves. It

¹⁰ Sub Chittar Singh v Union of India & Ors.



therefore, appears that the time limit fixed in the option was not the soul of the scheme nor was it essence of the scheme. Furthermore, we found from the respondents own documents dated 11.12.2013 that even extension of the time for submitting of option to 30.06.2011 has been conveyed by Government's communication dated 11.09.2013. Learned counsel for the Union of India tried his best to submit that the communication dated 30.12.2013 itself has not extended the time limit for submission of option to 30.06.2011 but this communication has only given direction to the officers to process the options of the persons who may have submitted their options by 30.06.2011. We are unable to accept the submissions of the learned counsel for the Union of India for the simple reason that the respondents' letter dated 11.12.2003 has unequivocally the headings "Extension of period for exercising of option for pay fixation in the revised pay structure". The other communication in para 2 clearly indicates that time period was extended only by the letter dated 12.12.2013 is as under:-

Para 2

“A copy of Gol, MoD Order No.AIR HQ/99141/04/AFPCC/1697/D(Pay/Services) dated 11 Dec 2013 extening the acceptance of option exercised by Service Pers upto 30 Jun 2013 is forwarded herewith for info and wide circulation please”.

No document has been placed on record saying that by another order the time limit to submit option was extended to 30.06.2011 apart from the one letter dated 11.12.2013. Since the letter dated 11.12.2013 itself was forwarded to the various HQrs, with forwarding letter dated 11.12.2013, nobody before 30.06.2011, could have known that the time limit for submitting the option was extended to 30.06.2011. Therefore, we do not find any justification to deny the benefit of submitting the option to the petitioners who could not give their option before 11.12.2013. If they would known prior to 30.06.2011 that they can give their option by or before 30.06.2011 the others may also have submitted the option for old pay scale. When the time is extended and it is not brought to the notice of the beneficiaries then extension of time by the respondents cannot give any benefit to the bona fide claimant for the benefit. This may be a fortuous circumstance for some persons, who, incidentally, have knowledge of the extended date to 30.06.2011, and may have submitted their option before 30.06.2011 and they were given benefit of their submission of option by the letter dated 11.12.2013. Therefore, also in the matter of financial penal consequences, such a conundrum, cannot be the criteria for giving benefit and denying the benefit. In view of the above reason that extension of date for submission of option was



ordered to be circulated vide communication dated 12.12.2013 then the persons who had submitted their options prior to 12.12.2013 cannot be denied the benefit of exercising their option.

10. In addition to above, we are of the considered opinion that if para 8(c) is accepted as a hurdle against the relief to the petitioners, then we cannot ignore the beneficial provision given in para 14(b)(iv), which clearly mandates that PAO (OR) will regulate fixation of pay that will be beneficial (out of the two options mentioned in the scheme) be allowed to the person. Such exercise should have been done before putting the petitioners in a particular pay scale. If the PAO (OR) had any difficulty due to the restriction imposed by para 8(c) then also it was the duty of the respondents to relax the rule by exercising power under para 21, for relaxing the last date of submission of the for such an option, and the omission is by a large number of persons, who may have a number of years to serve in the service.”

24. There are various reasons why, in our view, this writ petition cannot succeed:

(i) Firstly, the writ petition has been preferred more than 3½ years after the passing of the impugned judgment, without even a whisper of justification for the delay.

(ii) The writ petition is, therefore, liable to be rejected even on delay and laches. Nonetheless, as the issue is recurring in nature, we have examined it on merits.

(iii) It appears that the earlier decision of the AFT in **Sub Chittar Singh** has never been challenged by the petitioner. It is well settled that the UOI cannot adopt a pick and choose policy, and leave one decision unchallenged, while challenging a later decision on the same issue. Moreover, we find that the AFT, in the impugned order, has placed reliance on the decision in **Sub**



Chittar Singh which, as we note, remains unchallenged.

(iv) Even on merits, there is no substance in the present petition. The reasoning of the AFT is unexceptionable. Though para 8 of the SAI required persons to exercise the option regarding the manner in which they were to be extended the benefit of the revised pay scales within three months of the SAI, which was issued on 11 October 2008, it was extended twice. It was first extended by letter dated 21 December 2010 till 31 March 2011. Subsequently, by letter dated 11 December 2013, it was directed that applications for change of option received till 30 June 2011 would be processed. Though it is correct that the respondents did not exercise their option within that period, it is also clear that each of the respondents had exercised their option prior to 30 December 2013.

(v) Moreover, we are also in agreement with the AFT's reliance on clause 14(b)(iv) of the SAI, which mandated that, if no option was exercised by the individual, the PAO would regulate the fixation of pay of the individual on promotion to ensure that he would be extended the more beneficial of the two options, i.e., of either of re-fixation of pay with effect from 1 January 2006 or w.e.f. the date of his next promotion.

(vi) We are in agreement with the AFT that, given the fact that the instruction was pertaining to officers in the army, and was inherently beneficial in nature, it has to be accorded an expansive interpretation. The AFT has correctly noted that the



very purpose of granting extension of time for exercise of option was to cater to situations in which the officers concerned who in many cases, such as the cases before us, were not of very high ranks, would not have been aware of the date from which they were required to exercise their option and therefore may have either exercised their option belatedly or failed to exercise their option. It was, obviously, to ensure that an equitable dispensation of the recommendations of the 6th CPC that clause 14(b)(iv) place the responsibility on the PAO(OR) to ensure that the officers were given the more beneficial of the options available to them.

(vii) There is no dispute about the fact that, by re-fixing the pay of the respondents w.e.f. 1 January 2006 instead of the date from which they were promoted to the next grade between 1 January 2006 and 11 October 2008, the respondents suffered financial detriment. They, therefore, were not extended the most beneficial of the two options of pay of fixation available to them, as was required by clause 14(b)(iv) of the SAI.

25. We, therefore, are in complete agreement with the impugned judgment of the AFT and see no cause to interfere therein.

26. We also clarify that though Mr. Pandey fairly submits that the impugned order of the AFT stands implemented, in case any amount remains recovered from the respondents on the basis of the fixation of their pay as granted to them and challenged before the AFT, the said amount would be refunded to them forthwith.



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27. Accordingly, the writ petition stands dismissed in *limine*.

C.HARI SHANKAR, J.

AJAY DIGPAUL, J.

MAY 5, 2025/aky

[Click here to check corrigendum, if any](#)